



New South Wales

Uniform Civil Procedure Rules (Amendment No 31) 2009

under the

Civil Procedure Act 2005

The Uniform Rules Committee has made the following rules of court under the *Civil Procedure Act 2005*.

J Atkinson
Secretary of the Rule Committee

Explanatory note

The object of these Rules is to amend the *Uniform Civil Procedure Rules 2005* as a consequence of an amendment to Schedule 1 to the *Civil Procedure Act 2005* that has had the effect of applying those rules, together with Parts 3–9 of the *Civil Procedure Act 2005*, to the Industrial Relations Commission.

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Rule 1 Uniform Civil Procedure Rules (Amendment No 31) 2009

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1 Name of Rules

These Rules are the *Uniform Civil Procedure Rules (Amendment No 31) 2009*.

2 Commencement

These Rules commence on 1 February 2010 and are required to be published on the NSW legislation website.

Schedule 1 Amendment of Uniform Civil Procedure Rules 2005

[1] Rule 1.5 Application of these rules

Insert after rule 1.5 (2):

- (3) The exclusion of civil proceedings from any such provision is subject to such conditions, limitations or exceptions as are specified in Column 4 of Schedule 1 in relation to that provision.

[2] Rule 7.1 By whom proceedings may be commenced and carried on

Insert after rule 7.1 (4):

- (4A) Despite subrules (1)–(4), any person may commence and, unless the Commission orders otherwise, carry on proceedings in the Industrial Relations Commission by an industrial agent within the meaning of the *Industrial Relations Act 1996*.
- (4B) Subrule (4A) does not apply to or in respect of proceedings in the Industrial Relations Commission when constituted as the Industrial Court.

[3] Rule 10.20 Personal service required only in certain circumstances

Insert “the Industrial Relations Commission (including the Commission when constituted as the Industrial Court),” after “the Supreme Court,” in rule 10.20 (2) (a).

[4] Rule 10.29

Insert after rule 10.28:

10.29 Service under the Industrial Relations Act 1996

In any proceedings under the *Industrial Relations Act 1996* in which a document is required to be served on an industrial organisation within the meaning of that Act, service of the document must be effected:

- (a) by serving it personally on the organisation’s secretary or principal officer, or
- (b) by leaving it at the organisation’s registered office with a person who is apparently employed by the organisation, or
- (c) by sending it by post, addressed to the organisation’s secretary or principal officer:
 - (i) to the organisation’s address for service in the proceedings, or

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- (ii) if it has no address for service in the proceedings, to the organisation's registered office.

[5] Rule 25.1 Application

Insert "the Industrial Court, the" after "the Supreme Court," in rule 25.1 (1).

[6] Rule 33.1 Definitions

Insert at the end of paragraph (a) of the definition of *registrar* in rule 33.1 (1):

, and

- (a1) in relation to the Industrial Court, the industrial registrar referred to in section 207 of the *Industrial Relations Act 1996*, and

[7] Rule 33.1 (1), definition of "subpoena"

Insert at the end of paragraph (c):

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and includes a summons to that effect under section 165 of the *Industrial Relations Act 1996*.

[8] Schedule 1 Application of rules

Insert after the matter relating to the Supreme Court, in Columns 1, 2, 3 and 4, respectively:

Industrial Court	All civil proceedings	Part 6 Part 16 Part 20, except for Division 4 (but Division 4 does not apply until after conciliation has been attempted under section 109 of the <i>Industrial Relations Act 1996</i>) Part 23, Divisions 1 and 2 Parts 37, 38 and 39 Part 42, Division 2 Part 43
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Industrial Relations Commission (when constituted otherwise than as the Industrial Court)	All civil proceedings	Parts 5 and 6 Part 16 Part 17 (except to the extent to which the Commission orders that the Part is to apply) Part 20 Part 21 (except to the extent to which the Commission orders that the Part is to apply) Parts 22 and 23 Part 31, Division 1, except for rules 31.1, 31.2, 31.3, 31.4, 31.11, 31.12 and 31.16A Part 31, Division 2 Part 32 Part 34 (except to the extent to which the Commission orders that the Part is to apply) Parts 37, 38 and 39 Parts 42 and 43 Part 46
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[9] Schedule 2 Local rules that prevail over these rules

Insert after the matter relating to the *Supreme Court (Corporations) Rules 1999*:

Industrial Relations Commission Rules 2009

Part	Provision
All Parts	All rules in those Parts